

## REMARKS

Claims 1 - 15 remain active in this application. The indication of allowability of claims 6 and 13 is noted with appreciation. No amendments to the specification or claims are presented in this paper and no new matter has been introduced into the application.

Claim 1 has been rejected under 35 U.S.C. §103 as being unpatentable over Simmons et al. and claims 2 - 5, 7 - 12, 14 and 15 have been rejected under 35 U.S.C. §103 as being unpatentable over Simmons et al. in view of Cheney et al. These two grounds of rejection are respectfully traversed since Simmons et al. has even less to do with the present invention (if that is possible) than Macy et al. previously applied and now withdrawn and for which Simmons et al. has been merely substituted in asserted grounds of rejection after reopening prosecution by a panel decision in response to a Request for Pre-Appeal Brief Review and since the currently asserted grounds of rejection clearly ignore salient recitations of the claims.

It is respectfully submitted that the Simmons et al. reference clearly does not contain the subject matter the Examiner attributes to it. Specifically, the "FS" signal in Simmons et al. is not a "frame switch point" as claimed and asserted by the Examiner and is certainly not determined "in accordance with a signal corresponding to completion of decoding of a previous frame as claimed (emphasis added). Rather, the "FS" signal of Simmons et al. is a "frame synchronization pattern" (column 5, line 15 - emphasis added) which is a required portion of a transmitted signal (and thus is not "determined" at all and certainly not on the basis of a "signal corresponding to completion of decoding of a previous frame" but rather

must be "detected" in the transmitted signal before decoding can be correctly performed since the "frame" of Simmons et al. is essentially a "packet" of data (see, for example, column 5, line 17+). Moreover, it is only the search for an "FS" signal which is resumed upon completion of decoding of a frame of data (column 5, lines 49 - 50) and not synchronization with a bottom border of a scaled image or a frame switch point which is, in turn, determined based on a signal corresponding to completion of frame decoding. It is also respectfully pointed out that the passages of Simmons et al. cited above which directly contradict the Examiner in attribution of teachings thereto which are not, in fact, contained therein are within in portions of column 5 on which the Examiner *explicitly relies* and thus it is clearly seen that the Examiner has clearly misconstrued the subject matter contained in Simmons et al. but has virtually ignored salient recitations of the claims which the passages of Simmons et al. relied upon by the Examiner also contradict. Moreover, in this regard, no application of the determination of invalid synchronization patterns as taught by Simmons et al. to image data or image frames is seen in Simmons et al. and certainly not for controlling a motion video decoder as claimed.

Further, Simmons et al. not only fails to teach or suggest virtually all of the salient recitations of the claims but fails to provide any evidence of a level of ordinary skill in the art which could possibly support a conclusion of obviousness since it does not, either alone or in combination with Cheney et al., lead to an expectation of success in providing a reduction of latency and required hardware while accommodating scaled motion video image frames, particularly where scaling is

under user control. In this regard, Cheney et al. has been discussed in detail in the response filed September 12, 2005, which is hereby fully incorporated by reference. It is also respectfully submitted that Cheney et al. is not properly combinable with Simmons et al. since the subject matter disclosed in Cheney et al. would have no function in Simmons et al. or vice-versa. Moreover, the arts to which Cheney et al. and Simmons et al are drawn are largely non-analogous. It is not seen that Cheney et al. is even usable together with Simmons et al. as it might possibly have been in connection with Macy et al. as previously pointed out in the above-incorporated response and certainly does not mitigate the substantially complete deficiency of Simmons et al. to answer salient recitations of the claims even if, *arguendo*, properly combinable therewith.

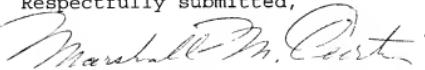
In summary, it appears that the Examiner has merely substituted one irrelevant reference for another irrelevant reference after re-opening of prosecution due to that very irrelevancy to the claimed subject matter. The Examiner has also misinterpreted the reference, evidently through hindsight, to conform to a few claimed elements while substantially ignoring numerous other salient recitations of the claims as well as passages of Simmons et al. which indicate that the Examiner's assertions are incorrect. Furthermore, the Examiner's line of reasoning as expressed in the discussion of Simmons et al. is largely circular in equating a frame synchronization signal with the claimed frame switch point while Simmons merely and simply synchronizes decoding with a synchronizing signal provided for synchronizing decoding with data so that decoding can be properly performed. It is respectfully submitted that, in so doing, the Examiner has failed to make a *prima*

facie demonstration of obviousness of any claim in the application and, it is respectfully submitted, cannot do so based of Simmons et al. taken alone or in combination with Cheney et al. even if that combination were proper and not also grounded in hindsight. Accordingly, it is respectfully submitted that the asserted grounds of rejection are clearly in error and untenable. Therefore, upon reconsideration, it is respectfully requested that the asserted grounds of rejection be withdrawn.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 09-0457 of International Business Machines Corporation (Endicott).

Respectfully submitted,

  
Marshall M. Curtis  
Reg. No. 33,138

Whitham, Curtis, Christofferson & Cook, P. C.